

AMENDED IN SENATE MAY 6, 2004

AMENDED IN SENATE APRIL 13, 2004

**SENATE BILL**

**No. 1190**

**Introduced by Senator Chesbro**

(Principal coauthor: Assembly Member Wiggins)

February 9, 2004

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An act relating to the Vallejo City Unified School District, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 1190, as amended, Chesbro. Vallejo City Unified School District.

(1) Existing law provides for emergency apportionments to school districts subject to specified conditions including, in certain circumstances, the repayment of an emergency loan over a period of no more than 10 years and the appointment by the Superintendent of Public Instruction of an administrator who would exercise the powers and responsibilities of the governing board of the school district.

This bill would require the Superintendent of Public Instruction to assume all the rights, duties, and powers of the governing board of the Vallejo City Unified School District and to appoint, in consultation with the Solano County Superintendent of Schools, an administrator to act on behalf of the Superintendent of Public Instruction in exercising the superintendent's authority over the school district. The bill would require the administrator to be deemed an employee of the school district for certain purposes.

The bill would require the governing board of the school district to serve as an advisory body reporting to the administrator and prohibit its members from receiving any compensation during the period of the superintendent's authority over the district. The bill would authorize the administrator to terminate the employment of certain district personnel, as provided. The bill would authorize the administrator, with the approval of the superintendent, to enter into agreements on behalf of the district and to change any existing district rules, regulations, policies, or practices, as provided.

The bill would continue the authority of the superintendent and the administrator over the school district until certain enumerated conditions are met, including the completion of assessment and improvement plans for the school district.

The bill would require the administrator to consider, on a monthly basis or more frequently if desired, information from one or more specified groups. The bill would require the County Office Fiscal Crisis and Management Assistance Team (FCMAT) to *conduct an assessment and* prepare, by ~~July~~ November 1, 2004, an improvement plan for the school district. The bill would require the FCMAT, commencing 30 days following the effective date of this bill and in ~~September 2004~~ January 2005 and at least every 6 months thereafter, to file a status report with specified persons on progress made by the district in implementing the plan.

The bill, except as specified, would require the school district to bear 100% of all costs associated with implementing its provisions, thereby imposing a state-mandated local program.

The bill would appropriate \$60,000,000 from the General Fund to the Superintendent of Public Instruction for apportionment as an emergency loan to the Vallejo City Unified School District. The bill would authorize the school district to sell property owned by the district and use the proceeds from the sale to reduce or retire the emergency loan and would prohibit the district from being eligible for financial hardship assistance under the Leroy F. Greene School Facilities Act of 1998.

(2) This bill would make a legislative finding and declaration that the unique circumstances of the Vallejo City Unified School District warrant the enactment of a special statute.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.



This bill would provide that no reimbursement is required by this act for a specified reason.

(4) This bill would declare that it is to take effect immediately as an urgency statute.

Vote: <sup>2</sup>/<sub>3</sub>. Appropriation: yes. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. The Legislature finds and declares all of the  
2 following:

3 (a) Providing a quality education that meets the unique needs  
4 of Vallejo public school pupils is a fundamental goal that should  
5 not be jeopardized.

6 (b) In February 2004, the Vallejo City Unified School District  
7 became aware of a negative general fund balance for the 2002–03  
8 fiscal year and of potential deficits in its 2003–04 budget.

9 (c) The Vallejo City Unified School District is projected to run  
10 out of cash in June of 2004 and, without external help, will be  
11 unable to meet current encumbered obligations.

12 (d) Despite reductions in district expenditures in the current  
13 year and actions taken by the governing board of the Vallejo City  
14 Unified School District to reduce the district budget for 2004–05  
15 by more than \$7.5 million, the district is projected to have a  
16 negative fund balance in the current year of more than \$20 million  
17 and a projected negative fund balance at the conclusion of the  
18 2004–05 fiscal year.

19 (e) The Vallejo City Unified School District needs a loan from  
20 the state in order to continue the delivery of educational services  
21 to pupils enrolled in the district.

22 SEC. 2. (a) It is the intent of the Legislature that the state  
23 administrator appointed pursuant to this act work with the  
24 administrators and governing board of the Vallejo City Unified  
25 School District to identify the procedures and programs that the  
26 district has implemented during the 2003–04 school year that have  
27 proven to do one or more of the following:

28 (1) Significantly raise pupil achievement.

29 (2) Improve pupil attendance.

30 (3) Lower pupil dropout rate.

31 (4) Increase parental involvement.

1 (5) Attract, retain, and train a quality teaching staff.

2 (b) It is the intent of the Legislature that these identified  
3 procedures and programs be protected, maintained, and expanded  
4 as the budget of the district allows.

5 SEC. 3. The Legislature finds and declares that because of the  
6 fiscal emergency in which the Vallejo City Unified School District  
7 finds itself, and in recognition of the March 31, 2004 request of the  
8 governing board of the district for a loan from the state, it is  
9 necessary that the Superintendent of Public Instruction assume  
10 control of the district in order to ensure the return to the district of  
11 fiscal solvency.

12 SEC. 4. (a) The Superintendent of Public Instruction shall  
13 immediately assume all of the rights, duties, and powers of the  
14 governing board of the Vallejo City Unified School District.

15 (b) The Superintendent of Public Instruction, in consultation  
16 with the Solano County Superintendent of Schools, shall appoint  
17 an administrator to act on behalf of the Superintendent of Public  
18 Instruction in exercising the authority described in this act. The  
19 Superintendent of Public Instruction or the state-appointed  
20 administrator may, on a short-term basis, employ at district  
21 expense any staff necessary to assist the administrator, including,  
22 but not limited to, a certified public accountant. The administrator  
23 shall have recognized expertise in management and finance. The  
24 administrator shall serve under the direction and supervision of the  
25 Superintendent of Public Instruction until terminated by the  
26 Superintendent of Public Instruction at his or her discretion. The  
27 Superintendent of Public Instruction shall consult with the Solano  
28 County Superintendent of Schools before terminating the  
29 administrator. The Superintendent of Public Instruction, operating  
30 through the administrator, may do all of the following:

31 (1) Implement substantial changes in the fiscal policies and  
32 practices of the Vallejo City Unified School District, including, if  
33 necessary, the filing of a petition under Chapter 9 of the federal  
34 Bankruptcy Act (11 U.S.C. Sec. 901 et seq.) for the adjustment of  
35 indebtedness of the district.

36 (2) Revise the educational program of the Vallejo City Unified  
37 School District to reflect realistic revenue projections, in response  
38 to the dramatic effect of the changes in fiscal policies and practices  
39 upon educational program quality and the potential for the success  
40 of all pupils. To the extent allowed by district finances, it is the

1 intent of the Legislature that the revised program maintain the core  
2 educational reforms that have led to districtwide improvement of  
3 academic achievement, including, but not limited to, educational  
4 reforms targeting underperforming schools and other reforms that  
5 have demonstrated measurable success.

6 (3) Encourage all members of the school community to accept  
7 a fair share of the burden of the fiscal recovery of the Vallejo City  
8 Unified School District.

9 (4) Consult, for the purposes described in this act, with the  
10 governing board of the Vallejo City Unified School District, the  
11 exclusive representatives of the employees of the district, parents,  
12 and the community.

13 SEC. 5. (a) (1) To facilitate the appointment of the  
14 state-appointed administrator and the employment of any  
15 necessary staff, for the purposes of this act, the Superintendent of  
16 Public Instruction is exempt from the requirements of Article 6  
17 (commencing with Section 999) of Chapter 6 of Division 4 of the  
18 Military and Veterans Code and Part 2 (commencing with Section  
19 10100) of the Public Contract Code.

20 (2) The Superintendent of Public Instruction shall establish  
21 salary and benefits of the administrator, which shall be paid by the  
22 Vallejo City Unified School District.

23 (3) During the tenure of his or her appointment, the  
24 administrator, if otherwise an employee of the state or of the  
25 county superintendent, is an employee of the school district, but  
26 shall remain in the same retirement system under the same plan  
27 that is provided by his or her employment with the state or the  
28 office of the county superintendent. Upon the expiration or  
29 termination of the appointment, the administrator shall have the  
30 right to return to his or her former position, or to a position at  
31 substantially the same level as that position, if that former position  
32 was with the state or the office of the county superintendent. The  
33 time served in the appointment shall be counted for all purposes  
34 as if the administrator had served that time in his or her former  
35 position with the state or with the office of the county  
36 superintendent.

37 (b) For the period of time during which the Superintendent of  
38 Public Instruction exercises the authority described in subdivision  
39 (a) of Section 4, the governing board of the Vallejo City Unified  
40 School District shall serve as an advisory body reporting to the

1 administrator, but has no rights, duties, or powers, and is not  
2 entitled to any stipend, benefits, or other compensation from the  
3 district.

4 (c) Notwithstanding any other provision of law, the  
5 administrator may, after according the employee reasonable notice  
6 and opportunity for hearing, terminate the employment of any  
7 district superintendent of schools, or deputy, associate, or assistant  
8 superintendent of schools, or other person employed in an  
9 equivalent capacity, whose duties include overseeing, managing,  
10 or otherwise directing the fiscal and budgetary operations of the  
11 Vallejo City Unified School District, and who is employed by the  
12 Vallejo City Unified School District under a contract of  
13 employment renewed after the effective date of this act if the  
14 employee fails to document, to the satisfaction of the  
15 administrator, that before the effective date of this act he or she  
16 either advised the governing board of the district, or his or her  
17 superior, that actions contemplated or taken by the governing  
18 board could result in the fiscal insolvency of the district or took  
19 other appropriate action to avert that fiscal insolvency.

20 (d) With the approval of the Superintendent of Public  
21 Instruction, the administrator may enter into agreements on behalf  
22 of the school district and, subject to any contractual and statutory  
23 obligation of the school district, change any existing school district  
24 rules, regulations, policies, or practices as necessary for the  
25 effective implementation of the improvement plan specified in  
26 Section 7 of this act.

27 (e) The authority of the Superintendent of Public Instruction  
28 and the administrator pursuant to this act shall continue until all of  
29 the following conditions occur:

30 (1) Two complete fiscal years have elapsed following the  
31 appointment of the administrator or, at any time after one complete  
32 fiscal year has elapsed following that appointment, if the  
33 administrator determines, and so notifies the Superintendent of  
34 Public Instruction, that future compliance by the Vallejo City  
35 Unified School District with the improvement plan specified in  
36 Section 7 of this act is probable.

37 (2) The County Office Fiscal Crisis and Management  
38 Assistance Team (FCMAT) completes the improvement plan  
39 specified in Section 7 of this act.



1 (3) *The* FCMAT, after consultation with the administrator,  
2 determines that for at least the immediately previous six months  
3 the school district made substantial and sustained progress in  
4 implementation of the plans in the major functional area.

5 (4) The administrator certifies that all necessary collective  
6 bargaining agreements have been negotiated and ratified and that  
7 the agreements are consistent with the terms of the improvement  
8 plan specified in Section 7 of this act.

9 (5) The district completes all reports required by the  
10 Superintendent of Public Instruction and the administrator.

11 (6) The Superintendent of Public Instruction concurs with the  
12 assessment of the administrator and *the* FCMAT that future  
13 compliance by the Vallejo City Unified School District with the  
14 improvement plan described in Section 7 of this act and the  
15 multiyear financial recovery plan described in paragraph (2) of  
16 subdivision (a) of Section 41327 of the Education Code is  
17 probable.

18 (f) If all of the conditions specified in subdivision (e) occur, the  
19 governing board of the Vallejo City Unified School District shall  
20 regain all of its rights, duties, and powers.

21 (g) Notwithstanding subdivision (f), if the Vallejo City Unified  
22 School District violates any provision of the improvement plan  
23 specified in Section 7 of this act, after the governing board of the  
24 school district regains all of its rights, duties, and powers pursuant  
25 to subdivision (f), the Superintendent of Public Instruction may  
26 reassume, in accordance with this section, all of the rights, duties,  
27 and powers of the governing board of the school district. The  
28 Superintendent of Public Instruction shall subsequently return to  
29 the governing board of the school district all of its rights, duties,  
30 and powers reassumed under this subdivision if he or she  
31 determines that the conditions of subdivision (e) are satisfied.

32 (h) For the purposes of Article 2 (commencing with Section  
33 41320) and Article 2.5 (commencing with Section 41325) of  
34 Chapter 3 of Part 24 of the Education Code, the administrator is  
35 a public school employer within the meaning of the Educational  
36 Employment Relations Act (Chapter 10.7 (commencing with  
37 Section 3540) of Division 4 of Title 1 of the Government Code).

38 SEC. 6. The administrator shall consider, on a monthly basis,  
39 or more frequently if so desired by the administrator, information  
40 from one or more groups from each of the following categories:



- 1 (a) The governing board of the school district.
- 2 (b) Any advisory council of the school district.
- 3 (c) Any parent-teacher organization of the school district.
- 4 (d) Representatives from the community in which the school
- 5 district is located.
- 6 (e) The County Office Fiscal Crisis and Management
- 7 Assistance Team.
- 8 (f) The Superintendent of Public Instruction.

9 SEC. 7. (a) On or before ~~July~~ *November* 1, 2004, the County  
10 Office Fiscal Crisis and Management Assistance Team (FCMAT)  
11 shall *conduct a comprehensive assessment and* prepare an  
12 improvement plan for the Vallejo City Unified School District  
13 *incorporating the following five operational areas:*

- 14 (1) *Financial management.*
- 15 (2) *Pupil achievement.*
- 16 (3) *Personnel management.*
- 17 (4) *Facilities management.*
- 18 (5) *Community relations.*

19 (b) Based upon progress reports prepared pursuant to  
20 subdivision (c), *the* FCMAT shall recommend to the  
21 Superintendent of Public Instruction those designated functional  
22 areas of school district operation that it determines are appropriate  
23 for the governing board of the school district to assume.

24 (c) Commencing 30 days following the effective date of this act  
25 and in ~~September 2004~~ *January 2005*, and each six months  
26 thereafter until ~~September 2005~~, *January 2006*, *the* FCMAT shall  
27 file a written status report with the appropriate fiscal and policy  
28 committees of the Legislature, including any special committees  
29 created for the purpose of reviewing the reports, and with the  
30 Members of the Legislature who represent the Vallejo City Unified  
31 School District, the advisory board of the school district, the  
32 Superintendent of Public Instruction, the Director of Finance, and  
33 the Secretary for Education. The reports shall include the progress  
34 that the Vallejo City Unified School District is making in meeting  
35 the recommendations of the improvement plan developed  
36 pursuant to this section.

37 SEC. 8. (a) The Vallejo City Unified School District shall  
38 bear 100 percent of all costs associated with implementing this act,  
39 except for the activities of the County Office Fiscal Crisis and



1 Management Team progress reports specified in Section 7 of this  
2 act.

3 (b) The Vallejo City Unified School District shall add the  
4 administrator as a covered employee of the school district for all  
5 purposes of errors and omissions liability insurance policies.

6 SEC. 9. (a) The sum of sixty million dollars (\$60,000,000) is  
7 hereby appropriated from the General Fund to the Superintendent  
8 of Public Instruction for apportionment to the Vallejo City Unified  
9 School District for the purpose of an emergency loan. In order to  
10 qualify for the loan, the district shall comply with Article 2  
11 (commencing with Section 41320) and Article 2.5 (commencing  
12 with Section 41325) of Chapter 3 of Part 24 of the Education Code  
13 to the extent those provisions are consistent with the conditions  
14 specified in this act.

15 (b) Funds may be disbursed from the proceeds of the loan only  
16 if the administrator and the County Office Fiscal Crisis and  
17 Management Assistance Team jointly determine that the  
18 disbursement is necessary.

19 (c) Based on the needs of the district to meet its obligations, the  
20 Superintendent of Public Instruction may direct the Controller to  
21 disburse, on a monthly basis, specific amounts of the emergency  
22 loan before the approval of all of the conditions established by this  
23 act.

24 (d) For the fiscal year in which the loan moneys are disbursed  
25 and each fiscal year thereafter, the Controller, or his or her  
26 designee, shall cause an audit to be conducted of the books and  
27 accounts of the district, instead of the audit required by Section  
28 41020 of the Education Code. At the discretion of the Controller,  
29 the audit may be conducted by the Controller, his or her designee,  
30 or an auditor selected by the county superintendent and approved  
31 by the Controller. The costs of the audit shall be paid by the district.  
32 The audits shall be performed until the Superintendent of Public  
33 Instruction, in consultation with the Controller, determines that the  
34 district is financially solvent, but may not cease being performed  
35 earlier than one year following the implementation of the plan  
36 required by Section 7 nor later than the time the emergency loan,  
37 including interest, is repaid. In addition, the Controller shall  
38 conduct quality control reviews pursuant to subdivision (c) of  
39 Section 14504.2 of the Education Code.

1 SEC. 10. (a) Notwithstanding subparagraph (A) of  
2 paragraph (2) of subdivision (a) of Section 41327 of the Education  
3 Code, the Vallejo City Unified School District shall repay the  
4 emergency loan incurred pursuant to Section 9 of this act as a  
5 straight line loan amortized over a 20-year term. This amount shall  
6 be repaid by the district, plus interest calculated at a rate equal to  
7 the rate earned by the Pooled Money Investment Account on the  
8 date this act becomes effective, for a period not to exceed 20 years.

9 (b) If a required payment is not made within 60 days after a  
10 scheduled date, the Controller shall pay the defaulted loan  
11 payment of principal and interest by withholding that amount from  
12 the next available payment that would otherwise be made to the  
13 county treasurer on behalf of the district pursuant to Section 14041  
14 of the Education Code. However, subject to the approval of the  
15 Department of Finance, the amount withheld may be in monthly  
16 amounts as determined by an agreement between the Vallejo City  
17 Unified School District and the Controller during the period  
18 beginning with the next available apportionment through the  
19 month preceding the next scheduled payment.

20 (c) The Director of Finance may amend the payment schedule  
21 set forth in subdivision (a) if the director concludes that the  
22 amendment is warranted and is in the best interests of both the state  
23 and the Vallejo City Unified School District education program.  
24 Upon that determination, the director shall notify the Joint  
25 Legislative Budget Committee that the payment scheduled will be  
26 changed on the date that is 90 days from the date of notification if  
27 the Legislature is in session. If the 90-day period ends during a  
28 recess of the Legislature or while the Legislature is not in session,  
29 the 90-day period shall be extended until the Legislature  
30 reconvenes. Amendments to the payment schedule shall defer the  
31 unpaid portion of a repayment of the earliest fiscal year in which  
32 no other repayment is scheduled. Interest shall accrue on the  
33 unpaid portion of a repayment from the scheduled due date until  
34 the time the payment is actually made. The interest charge shall be  
35 the rate equal to the daily investment rate of the Pooled Money  
36 Investment Account on the date the pay schedule is changed.

37 (d) The school district may repay its loan obligation without  
38 incurring any prepayment penalties.

39 SEC. 11. (a) Notwithstanding Sections 17456, 17457,  
40 17462, and 17463 of the Education Code, or any other law, from

June 1, 2004, to June 30, 2007, inclusive, the Vallejo City Unified School District may sell property owned by the district and use the proceeds from the sale to reduce or retire the emergency loan provided in Section 9 of this act. The sale only of property pursuant to this subdivision is not subject to Section 17459 or 17464 of the Education Code.

(b) Notwithstanding any other provision of law, from June 1, 2004, to June 30, 2006, inclusive, the Vallejo City Unified School District is not eligible for financial hardship assistance pursuant to Article 8 (commencing with Section 17075.10) of Chapter 12.5 of Part 10 of the Education Code.

SEC. 12. The Solano County Superintendent of Schools maintains the responsibility to superintend school districts under its jurisdiction. This act does not remove any statutory or regulatory rights, duties, or obligations from the county superintendent of schools.

SEC. 13. The Department of Finance is authorized to redirect funds appropriated in Item 6110-107-0001 of Section 2.00 of the Budget Act of 2003 and from the corresponding item and section number of the Budget Act of 2004 for the purposes of funding activities of the County Office Fiscal Crisis and Management Assistance Team specified in this act.

SEC. 14. The Legislature finds and declares that due to unique circumstances relating to the fiscal emergency in the Vallejo City Unified School District, a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution.

SEC. 15. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district are the result of a program for which legislative authority was requested by that local agency or school district, within the meaning of Section 17556 of the Government Code and Section 6 of Article XIII B of the California Constitution.

SEC. 16. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to address the fiscal emergency in which the Vallejo City Unified School District finds itself and to ensure that it meets

- 1 its cash obligations for this fiscal year, it is necessary that this act
- 2 take effect immediately.

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